

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF TAX AND REVENUE



August 9, 2019

OTR NOTICE 2019-04

GUIDANCE FOR APPLICABLE ENTITIES
PURSUANT TO THE INDIVIDUAL TAXPAYER HEALTH INSURANCE
RESPONSIBILITY REQUIREMENT AMENDMENT ACT OF 2018

The District of Columbia has enacted legislation that requires all District residents to have minimal essential health care coverage or have a coverage exemption or pay a tax penalty for tax years ending on or after December 31, 2019. [See Individual Taxpayer Health Insurance Responsibility Requirement Amendment Act of 2018, effective October 30, 2018 \(D.C. Law 22-168\)](#). Those requirements were codified in a new Chapter 51 to Title 47 of the D.C. Official Code.

The purpose of this notice is to give guidance to insurance companies, businesses providing insurance to their employees, and other applicable entities and third-party service providers that provide minimum essential coverage. These entities are required to file returns consistent with D.C. Official Code § 47-5105 as well as other information required by the Office of Tax and Revenue (OTR).

1. What is the DC Individual Responsibility Requirement, and why is it relevant to employers and insurance companies?

Beginning in 2019, most District taxpayers must maintain qualifying health coverage, get an exemption, or pay a penalty. This is modeled on the federal individual shared responsibility requirement that was in effect prior to 2019.

The District law also requires every “applicable entity that provides minimum essential coverage to an individual during a calendar year” to submit an information return regarding such coverage to OTR. It also requires the applicable entity to furnish a statement about the coverage to the individual covered.

2. What is an “applicable entity”?

An “applicable entity” means an employer or other sponsor of an employment-based health plan or an insurance issuer or carrier licensed to or otherwise authorized to offer minimum

essential coverage. “Applicable entity” also includes the District of Columbia Department of Healthcare Finance (DHCF).

3. Which applicable entities are required to file information returns with OTR?

The following applicable entities are required to sign up and file information returns with OTR:

- Employers or other sponsors of employment-based health plans, including governmental agencies, that covered at least fifty full-time employees, including at least one employee who was a District resident, during the applicable calendar year;
- Persons, including governmental agencies, who provided minimal essential coverage to a District resident during the applicable calendar year;
- An insurance issuer or carrier licensed to or otherwise authorized to offer minimum essential coverage in the District during the applicable calendar year; and
- DHCF.

4. If an applicable entity is a governmental unit or any agency or instrumentality thereof, who is responsible for filing an information return with OTR?

The officer or employee of the governmental unit, agency or instrumentality who enters into the agreement to provide coverage (or his or her designee) shall file the information return(s) with OTR.

5. How should applicable entities determine if an individual is a resident of the District for purposes of reporting?

For purposes of reporting health insurance coverage to OTR, an individual is deemed to be a resident of the District as follows:

- For employers or other sponsors of employment-based health plans, if that individual is an employee for whom wages were withheld and paid to the District for any period during the applicable calendar year.
- For persons who provided minimal essential coverage to an individual, if that individual had a home or mailing address in the District at any time during the applicable calendar year;
- For insurance issuers and carriers that provided minimum essential coverage to an individual, if the insured individual or other person obtaining coverage under a policy had a home or mailing address in the District at any time during the applicable calendar year; and

- For DHCF, all individuals enrolled at any time during the applicable calendar year in the Medicaid Program, the Children's Health Insurance Program or the Immigrant Children's Program.

6. Does the District require applicable entities to furnish an additional annual statement of health coverage to employees and covered individuals in addition to the forms sent to those individuals pursuant to federal law?

No. Compliance with the IRS requirement to furnish an annual statement of health coverage to employees or covered individuals (Form 1095-B or Form 1095-C) is sufficient.

7. What coverage information returns are applicable entities required to file with the OTR?

Applicable entities should file the same information returns that they file with the IRS including:

- **Form 1094-B**, *Transmittal of Health Coverage Information Returns*
- **Form 1095-B**, *Health Coverage*
- **Form 1094-C**, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*
- **Form 1095-C**, *Employer-Provided Health Insurance Offer and Coverage*

All information returns must be filed electronically with OTR by uploading files through MyTax.DC.gov using OTR's prescribed layouts and file formats. All files must be a delimited file with an extension of .txt (.zip files are acceptable).

8. Other than uploading electronic files through MyTax.DC.gov, will there be any other filing options such as using Web Services or SFTP or filing paper information returns?

No. The only option for uploading files is through MyTax.DC.gov.

9. Is an applicable entity permitted to contract with a third-party service provider to file information returns on its behalf for the purposes of reporting whether an individual had minimum essential coverage?

Yes. Third-party service providers may file information returns on behalf of applicable entities.

10. How does an applicable entity or third-party service provider sign up with OTR to upload files through MyTax.DC.gov?

- If the applicable entity or third-party service provider is currently a DC taxpayer with a MyTax.DC.gov login, no additional sign up is required. Your MyTax.DC.gov login will be used to upload files.

- If the applicable entity or third-party service provider is currently a DC taxpayer without a MyTax.DC.gov login, a login must be created before files can be uploaded.
- If the applicable entity or third-party service provider is not a DC taxpayer, the entity must sign up to the MyTax.DC.gov portal as a bulk filer and from the “Home” screen, click on “More” under “I want to” and click on “Request to bulk file.”

11. Is there an acknowledgment that applicable entities or third-party service providers can retrieve from MyTax.DC.gov to ensure the files were received and processed successfully?

MyTax.DC.gov does not generate an acknowledgment like IRS’s Affordable Care Act (ACA) Information Returns (AIR) System. Instead, applicable entities and third-party service providers will be notified if there are errors when they attempt to upload a file. If there are no errors, the bulk file upload will indicate “processing” until “accepted.”

12. Will there be an error correction process available to applicable entities and third-party service providers?

Yes. Applicable entities and third-party services providers can upload a correction file. However, only one correction file can be filed per business day. No files will be accepted after December 31 of the filing year.

13. Is there a process available for applicable entities and third-party service providers who will upload bulk files to send test files prior to uploading a file with live data?

Yes. Bulk filers may send an email to bulkwhsutesting@dc.gov with the attached file.

14. When should applicable entities and third-party service providers sign up with MyTax.DC.gov?

Applicable entities may sign up beginning immediately. Applicable entities must complete this process before the deadline for filing the required information returns.

15. What is the filing deadline for uploading the information returns?

For tax year ending December 31, 2019, the deadline is June 30, 2020. For tax years beginning after December 31, 2019, the deadline is 30 days after the IRS deadline for submitting 1095-B or 1095-C forms, including any extensions granted by the IRS.

16. What do I do if I have questions?

If you have questions about how to register with OTR or how to file returns, please contact OTR’s Customer Service Center at e-services.otr@dc.gov or (202) 759-1946. If you have questions about whether you are required to file returns, please contact the Office of General Counsel at (202) 442-6500.